



DEPARTMENT OF EDUCATION

34 CFR Parts 600, 674, 682, and 685

Federal Student Aid Programs (Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program)

AGENCY: Office of Postsecondary Education, Department of Education (the Department).

ACTION: Updated waivers and modifications of statutory and regulatory provisions.

SUMMARY: The Secretary is issuing updated waivers and modifications of statutory and regulatory provisions governing the Federal student financial aid programs under the authority of the Higher Education Relief Opportunities for Students Act of 2003 (HEROES Act). The waivers and modifications in this document apply only to the national emergency declared in regard to the coronavirus disease 2019 (COVID-19) pandemic. With the termination of the COVID-19 national emergency, effective April 10, 2023, each waiver and modification identified in this document expires at the end of the award year that ends on June 30, 2023, unless otherwise noted in this document or unless it is otherwise extended by the Secretary in a document published in the *Federal Register*. HEROES Act waivers and

modifications included in earlier documents sunset in accordance with the timeframes provided in those documents.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION: On December 11, 2020, the Secretary published a document in the *Federal Register* announcing waivers and modifications of statutory and regulatory requirements governing the Federal student financial aid programs under the authority of the HEROES Act (20 U.S.C. 1098bb(a)(2)) in response to the COVID-19 national emergency. (85 FR 79856). On January 19, 2021, the Secretary published a notice correcting the date through which some of the waivers and modifications included in the prior document were extended. (86 FR 5008). The Secretary is issuing this document to provide updated waivers and modifications under the HEROES Act and to provide notice of their expiration date in connection with the termination of the COVID-19 national emergency.

The HEROES Act authorizes the Secretary to waive or modify any statutory or regulatory provision applicable to

the Federal student financial assistance programs under title IV of the Higher Education Act of 1965, as amended (HEA) 20 U.S.C. 1070 *et seq.*, as the Secretary deems necessary in connection with a war or other military operation or national emergency. Such waivers or modifications may be provided to affected individuals who are recipients of Federal student financial assistance under title IV of the HEA, institutions of higher education (IHEs), eligible lenders, guaranty agencies (GAs), and other entities participating in the Federal student financial assistance programs under title IV of the HEA that are located in areas declared disaster areas by any Federal, State, or local official in connection with a national emergency, or whose operations are significantly affected by such a disaster. These entities may be granted temporary relief from requirements that are rendered infeasible or unreasonable by a national emergency, including due diligence requirements and reporting deadlines.

Under 20 U.S.C. 1098bb(b) (1), section 437 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of the Administrative Procedure Act (5 U.S.C. 553) do not apply to the contents of this document.

On March 13, 2020, by Proclamation 9994, the President declared a national emergency concerning the COVID-19 pandemic, which was extended on February 24, 2021 (86 FR

11599), and February 18, 2022 (87 FR 10289). On February 10, 2023, President Biden announced his intention to terminate the COVID-19 national emergency. (88 FR 9385). On April 10, 2023, the President signed H.J. Res. 7 into law, which terminates this national emergency. The waivers and modifications provided in this document apply only to the declared COVID-19 national emergency. Prior waivers granted by the Secretary under the HEROES Act remain in effect for affected individuals, as defined in those waivers.

The terms "institution of higher education" and "institution of higher education for purposes of title IV programs" (IHE) used in this document are defined in sections 101 and 102 of the HEA.

In 20 U.S.C. 1098ee, the HEROES Act provides definitions critical to determining whether a person is an "affected individual" under the Act and, if so, which waivers and modifications apply to the affected individual. However, because these definitions do not include the specific circumstances under which these waivers and modifications are provided under the HEROES Act, we provide these definitions below.

For purposes of this document, "affected individual" means a student enrolled in an institution of higher education. An "affected borrower" is one whose Federal student loans provided under title IV are in repayment.

These definitions are in keeping with 20 U.S.C. 1098bb(a)(2), which establishes that statutory and regulatory provisions can be waived or modified “as necessary to ensure that recipients of student financial assistance under title IV of the HEA who are affected individuals are not placed in a worse position financially in relation to that financial assistance because of their status as affected individuals.” The statute also authorizes the Secretary to minimize administrative requirements placed on affected individuals who are recipients of student financial assistance to the extent possible without impairing the integrity of the student financial assistance programs, to ease the burden on such individuals and avoid inadvertent technical violations or defaults.

In accordance with the HEROES Act and the national emergency that was declared by the President on March 13, 2020, and subsequently extended on February 24, 2021, and February 18, 2022, the Secretary is publishing the following waivers and modifications of statutory and regulatory provisions applicable to the student assistance general provisions and student financial assistance programs under title IV of the HEA that the Secretary deems necessary in connection with the COVID-19 national emergency. Each provision is discussed further below:

- IHEs are permitted to waive the requirement for a parental signature in the event that it cannot be obtained, or to accept a document signed and photographed and sent by email or text message attachment, on any verification documentation required to validate a student's title IV eligibility.

- Borrowers with loans under the Federal Perkins Loan Program whose loans have been placed in a forbearance status on or after March 13, 2020, will have that period excluded from the 3-year cumulative limit on forbearances.

- Borrowers with Federal Perkins Loans who are employed full-time in specified occupations, such as teaching or law enforcement, may receive loan cancellation for every year of service if their service is uninterrupted. Under this waiver, borrowers working toward service cancellation of such loans are exempted from the requirement that performing service must be uninterrupted or consecutive to qualify for loan cancellation, if qualifying service was disrupted due to the COVID-19 national emergency. Institutions are required to obtain and retain a written attestation from the borrower (which may be by email or text message) requesting cancellation and describing how the qualifying service was interrupted as a result of the COVID-19 national emergency.

Appropriate explanations for the interruption of service include, but are not limited to, the closure of the

facility where the borrower was working or decreased work hours as a result of the COVID-19 national emergency.

Information provided by the borrower (that in the judgment of the IHE is reliable) is acceptable for documentation purposes.

- Borrowers who have received a total and permanent disability discharge are not required to certify their annual earnings during the 3-year post-discharge monitoring period.

- Borrowers who were in an in-school status or an in-school deferment status on or after March 13, 2020, for Direct Loan repayment purposes remain in such status when the borrower's attendance was interrupted by the COVID-19 national emergency, unless the borrower's institution ceased operations on or after March 13, 2020, and does not expect to reopen for more than 90 days, or the borrower officially withdraws or otherwise indicates their intent not to resume attendance at least half-time at the institution.

- Borrowers participating in income-driven repayment (IDR) plans under §§ 685.209(a)(5)(i) and 685.221(e)(1) are not required to provide documentation that enables the annual calculation of the borrower's payment amount for each year the borrower remains on the plan and will be notified of a new recertification date in advance of the deadline on which such documentation is required.

- The Secretary approved and announced the Fresh Start initiative on April 6, 2022.¹ During the COVID-19 national emergency many borrowers lost their jobs and fell behind on student loans payments. The Fresh Start Initiative will enable approximately 7.5 million borrowers with defaulted Federal student loans to return to repayment without any past due balance, just like non-defaulted borrowers. These borrowers are disproportionately likely to be first generation college students, have received a Federal Pell Grant, and qualify for low monthly payments under affordable IDR plans.

The Fresh Start initiative eliminates the negative effects on borrowers who defaulted on student loans made under the William D. Ford Federal Direct Loan Program prior to March 13, 2020 (prior to the payment pause); borrowers with Federal Family Education Loan (FFEL) Program loans that defaulted prior to March 13, 2020, that are held by the Department and GAs; and borrowers with defaulted Department-held Perkins loans. Borrowers who take advantage of Fresh Start will have renewed eligibility for additional title IV aid (without going through loan rehabilitation or consolidation) and would have a pathway to return to repayment on their defaulted loans without an overdue balance. Borrowers who take advantage of the

¹ <https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2022-08-17/information-about-restored-aid-eligibility-under-fresh-start-initiative>.

opportunity provided by Fresh Start will also regain access to the full list of repayment options for loans not in default, including the opportunity to enter into an IDR repayment plan allowing a more affordable monthly payment. In addition, borrowers who attempted to rehabilitate their defaulted loan during the payment pause will regain access to the one-time loan rehabilitation opportunity, which provides credit reporting benefits and protects borrowers from involuntary debt collection.

- The Department waives the requirement that GAs meet minimum reserve levels in their Federal Funds for Federal fiscal years at least partially overlapping with the Fresh Start Initiative.

- The Department waives the requirement that GAs remit to the Secretary excess proceeds from the consolidation of defaulted loans that exceed 45 percent of the agency's total collections during Federal fiscal years at least partially overlapping with the Fresh Start Initiative.

- A GA will not have its reinsurance rate reduced if the total of reinsurance claims paid by the Secretary reaches specified thresholds prescribed in regulations for Federal fiscal years that partially overlap with the Fresh Start Initiative.

- The Department modifies the formula for the Account Maintenance Fee received by GAs so that a GA's revenue will

not be significantly decreased due to the pause on collections of FFEL loans in default held by a GA. Modifications to the formula will continue through the fiscal year that partially overlaps with the Fresh Start Initiative.

- Perkins Loan and Health Education Assistance Loan (HEAL) borrowers whose loans are held by the Department are afforded the same benefits extended to Direct Loan borrowers in the Coronavirus Aid, Relief, and Economic Security (CARES) Act.²

- Borrowers with federally held Direct Loans, FFEL loans, Perkins Loans, and HEAL loans did not accrue interest on those loans from March 13, 2020, to March 27, 2020. Borrowers were also permitted to suspend payment on their loans without any penalties during this period. The automatic suspension of payment and the application of a zero percent interest rate on loans held by the Department was extended to October 1, 2020, under the CARES Act. On August 24, 2022, the Secretary extended the pause on student loan payments and interest benefits through December 31, 2022.³ The Secretary announced on November 22, 2022, another extension of the pause on student loan repayment, interest, and collections.⁴ The Fiscal

² www.congress.gov/bill/116th-congress/house-bill/748/text.

³ www.ed.gov/news/press-releases/biden-harris-administration-announces-final-student-loan-pause-extension-through-december-31-and-targeted-debt-cancellation-smooth-transition-repayment.

⁴ www.ed.gov/news/press-releases/biden-harris-administration-continues-fight-student-debt-relief-millions-borrowers-extends-student-loan-repayment-pause.

Responsibility Act of 2023 (Public Law 118-15) ends these waivers 60 days after June 30, 2023.

- The Department paused collections on loans in default on a commercial FFEL loan at a guaranty agency and set interest to 0 percent retroactively to March 13, 2020, until the end date for the overall payment pause, interest, and collections provision. This included a refund of all involuntary collections, the option to refund voluntary payments, and the cessation of collection charges for successful loan rehabilitations. Borrowers who are in the process of completing a loan rehabilitation agreement could have months of the pause count toward successful completion of that agreement, regardless of whether they made a payment. During and through the end of the payment pause, the guaranty agencies will assign any FFEL loans that defaulted on or after March 13, 2020, to the Department which will return those loans to good standing.

- Upon the end of the payment pause, the Department will not capitalize any interest that accrued on federally held Direct Loans or FFEL loans that were in a deferment, forbearance, in-school, grace period, or any other status in which payments were not required on March 12, 2020.

- Borrowers with qualifying loans working toward Public Service Loan Forgiveness (PSLF) and Temporary Expanded Public Service Loan Forgiveness (TEPSLF) were exempted from the requirement under section 455(m)(1)(B)(i)

of the HEA that the borrower work for a qualifying employer at the time they apply for or receive forgiveness. To benefit from this waiver, borrowers with qualifying loans must have applied for the limited PSLF waiver announced by the Department on October 6, 2021, by October 31, 2022.⁵

- Borrowers who submitted applications for a borrower defense discharge on or prior to August 31, 2022, that related to any Direct or Federal non-Direct loans made prior to July 1, 2020, and who consolidated those loans into a Direct Consolidation Loan on or after July 1, 2020, will have their application for a discharge adjudicated under the standards for borrower defense discharges on Direct Loans disbursed between July 1, 2017, and July 1, 2020.

- The Department waived the United States Medical Licensing Exam (USMLE) pass rate requirement for currently approved participating foreign graduate medical institutions for the duration of years when the test was unavailable due to the COVID-19 national emergency.

Each of the waivers and modifications described in this notice independently serves the purposes of the HEROES Act. The Secretary accordingly deems each of these waivers and modifications to be necessary in connection with the COVID-19 national emergency, and intends that these waivers and modifications be legally severable. Were a court to

⁵ www.ed.gov/news/press-releases/fact-sheet-public-service-loan-forgiveness-pslf-program-overhaul.

stay or invalidate any of these waivers or modifications, or to deem any waiver or modification unlawful as applied in certain factual circumstances, the Secretary would intend that all other waivers and modifications set forth in this notice remain in effect to the maximum possible extent.

Prior waivers granted by the Secretary under the HEROES Act that are not otherwise discussed in this document remain in effect for affected individuals, as defined in those waivers. (85 FR 79856, as corrected in 86 FR 5008).

WAIVERS AND MODIFICATIONS GRANTED UNDER THE HEROES ACT IN CONNECTION WITH THE COVID-19 NATIONAL EMERGENCY

Verification

Acceptable Documentation (34 CFR 668.57(b), (c), and (d))

Sections 668.57(b) and (c) require a statement signed by both the applicant and one of the applicant's parents if the applicant is a dependent student, or only the applicant if the applicant is an independent student, to verify the number of family members in the household and the number of family members enrolled in IHEs. Pursuant to § 668.57(d), an applicant may also be required to verify other information specified in the annual *Federal Register* document that announces the Free Application for Federal Student Aid (FAFSA) information as well as the acceptable

documentation for verifying that FAFSA information. The Department waived the requirement that IHEs require parental signatures. IHEs may waive the requirement for a parental signature in the event that it cannot be obtained, or accept a document signed and photographed and sent by email or text message attachment, on any verification documentation required to validate a student's title IV eligibility. This waiver expires at the end of the payment period that begins after April 10, 2023, when the federally declared national emergency related to COVID-19 ended. Payment periods are as defined in 34 CFR 668.4. In a program measured in standard terms, the payment period is the term, i.e., semester, trimester, or quarter.

Forbearance (34 CFR 674.33(d)(2))

Under section 464(e) of the HEA and § 674.33(d)(2), there is a 3-year cumulative limit on the length of forbearances that a Federal Perkins Loan borrower can receive. To assist Federal Perkins Loan borrowers during the COVID-19 national emergency, for a borrower whose Perkins Loan was in forbearance status on or after March 13, 2020, the Secretary waived these statutory and regulatory requirements and will exclude that period of forbearance during the payment pause from the 3-year cumulative limit. The Secretary also applies the waivers described in this paragraph to loans held by the Department.

Service-Based Loan Cancellation (34 CFR 674.53, 674.55, 674.55(b), 674.56, 674.57, 674.58, 674.60, 682.216, and 685.217)

Federal Perkins Loan borrowers may qualify for loan cancellation if they are employed full-time in specified occupations and meet additional eligibility requirements or are providing eligible volunteer service, pursuant to sections 460 and 465 of the HEA. An eligible Perkins Loan borrower may qualify for a service cancellation under §§ 674.53 (Teacher), 674.55 (Teacher), 674.56 (Nurse, medical technician, employee in a child or family service agency, professional provider of early intervention services, firefighter, faculty member at a Tribal College or University, librarian, speech pathologist), 674.57 (Law enforcement officer, corrections officer, attorney in an eligible Federal public defender or community defender organization), 674.58 (Full-time staff member in a Head Start, pre-kindergarten, or child care program), and 674.60 (Volunteer under the Peace Corps Act or the Domestic Volunteer Service Act of 1973).

For Perkins Loan teacher cancellations under §§ 674.53 and 674.55, borrowers must perform uninterrupted, otherwise-qualifying service for a complete academic year.

For the Perkins Loan service cancellations under §§ 674.56, 674.57, 674.58, and 674.60, borrowers must perform

uninterrupted otherwise-qualifying service for a complete year.

FFEL and Direct Loan borrowers may qualify for teacher loan forgiveness pursuant to section 428J of the HEA and §§ 682.216 and 685.217. To qualify for teacher loan forgiveness, a FFEL or Direct Loan borrower must provide qualifying teaching service for 5 consecutive, complete academic years.

The Secretary waived the requirements that provide that periods of qualifying service for the loan forgiveness opportunities mentioned above be uninterrupted or consecutive to qualify the borrower for loan cancellation or loan forgiveness if the service was interrupted due to COVID-19.

Institutions must obtain and retain a written attestation from the borrower (which may be by email or text message) requesting cancellation and which describes how the qualifying service was interrupted as a result of the COVID-19 national emergency.

Appropriate explanations for the interruption of service include, but are not limited to, the closure of the facility where the borrower was working or decreased work hours as a result of the COVID-19 national emergency. Information provided by the borrower (that in the judgment of the IHE is reliable) is acceptable for documentation purposes.

Therefore, the service period required for the borrower to receive or retain a loan cancellation or loan forgiveness for which they are otherwise eligible will not be considered interrupted by any period that these waivers are in effect. The Secretary applies the waivers described in this paragraph to loans held by the Department.

Total and Permanent Disability Discharges (34 CFR 674.61(b), 682.402(c), and 685.213(b))

Under §§ 674.61(b)(7)(iii), 682.402(c)(7)(iii), and 685.213(b)(8)(iii), a borrower who receives a total and permanent disability discharge through the Social Security Administration or physician's certification process must certify their annual earnings during the 3-year post-discharge monitoring period. To assist borrowers, the Secretary waived the requirement that the borrower provide the Secretary with documentation of annual earnings from employment.

Borrowers in In-School Loan Status (34 CFR 682.209 and 685.207) and In-School Deferment Status (34 CFR 682.210 and 685.204)

Under §§ 682.209(a) and 685.207, for purposes of the FFEL and Direct Loan Programs, a borrower ceases to be in an "in-school" status, and either resumes repayment or enters a grace period on a loan, when the borrower ceases to be enrolled at an eligible school on at least a half-time basis. Similarly, §§ 682.210 and 685.204 provide

that, for purposes of the Direct Loan and FFEL Programs, a borrower's deferment while enrolled in an eligible school ends when the borrower ceases to be enrolled at least half-time. Section 668.2(b) defines a "half-time student" as one who is carrying a half-time academic workload, as determined by the institution, that amounts to at least half of the workload of the applicable minimum requirement outlined in the definition of a "full-time student," or, if the student is enrolled solely in a program of study by correspondence, is carrying a workload of at least 12 hours of work per week, or is earning at least 6 credit hours per semester, trimester, or quarter.

The Secretary waived § 668.2(b), such that a student who met the institution's definition of a "half-time student" at the time the student's enrollment was interrupted due to the COVID-19 national emergency continues to be treated as enrolled at least half-time for purposes of the borrower's "in-school" and "in-school deferment" statuses, unless the borrower's institution ceased operations on or after March 13, 2020, and does not expect to reopen for more than 90 days; or unless the borrower officially withdraws or otherwise indicates their intent not to resume attendance at an institution on at least a half-time basis. A borrower whose enrollment was interrupted due to the COVID-19 national emergency, may not be treated as withdrawn or enrolled less-than-half-time for

enrollment reporting purposes, unless the borrower officially withdraws; the borrower indicates their intent not to resume attendance on at least a half-time basis; or the borrower's institution ceased operations on or after March 13, 2020, and does not expect to reopen for more than 90 days. The institution must document this decision in its records.

Recertification of Income-Driven Repayment Plans (34 CFR 685.209 and 685.221)

Under §§ 685.209 and 685.221, a borrower participating in an income-driven repayment plan is required to provide documentation, acceptable to the Secretary, that enables annual calculation of the borrower's payment amount for each year that the borrower remains on the plan.

The Secretary waived the recertification documentation requirements of §§ 685.209(a)(5)(i) and 685.221(e)(1) and borrowers will be notified by their loan servicer of their new certification date, in advance of the deadline on which such documentation is required.

Fresh Start Initiative

The Secretary waived the title IV eligibility requirements of § 668.32(g)(1) for a borrower who is in default on a Federal student loan and waived 20 U.S.C. 1091(a)(3), which makes defaulted borrowers ineligible for any title IV aid. Borrowers who qualify under the Fresh Start Initiative will be eligible for title IV student aid.

The Secretary also waived the conditions needed to regain title IV eligibility in § 668.35(a) for a student who is in default on a title IV loan.

The Fresh Start initiative will be available to qualifying borrowers for 1 full year following the end of the payment pause. The waivers provided as part of the Fresh Start Initiative will expire on October 1, 2024.

Minimum Reserve Ratios (34 CFR 682.410)

Section 682.410(a)(10) provides the minimum reserve fund levels that a GA is required to maintain. The reserve fund level is calculated as the GA's total reserve fund assets less the amount of reserve fund assets used in accordance with § 682.410(a)(2) and (3). The minimum reserve ratio is calculated by dividing a GA's reserve fund level by the amount of loans outstanding as defined in § 682.410(a)(11)(ii) and expressed as a percentage.

The Secretary waived the requirement that a GA meet a minimum reserve ratio requirement as provided in § 682.410(a)(10) for Federal fiscal years at least partially overlapping with the Fresh Start Initiative as described earlier in this document.

Limits on Loan Consolidation Volume (34 CFR 682.401(b)(18))

Under § 682.401(b)(18), a GA may charge collection costs in an amount not to exceed 18.5 percent of the outstanding principal and interest on a defaulted FFEL

Program loan that is paid off by a Direct Consolidation loan. A GA that returns proceeds to the Secretary from the consolidation of a defaulted loan must remit the applicable amounts prescribed in § 682.401(b)(18)(ii) or (iii).

The Secretary waived the requirement in § 682.401(b)(18) that the GA return the funds identified as excess consolidation proceeds in §682.401(b)(18)(ii) or (iii) to the Secretary during Federal fiscal years at least partially overlapping with the Fresh Start Initiative, described earlier in this document.

Reinsurance Trigger Rate (34 CFR 682.404(b))

Under § 682.404(b), the reinsurance rate for payments of reinsurance to the GA is reduced if the total of reinsurance claims paid by the Secretary to the GA during any fiscal year reaches specified thresholds.

The Secretary waived the requirement in §682.404(b) that would provide for the reduction in the reinsurance rate under § 682.404(b) for Federal fiscal years at least partially overlapping with the Fresh Start Initiative, described earlier in this document.

Federal Reinsurance Agreement (34 CFR 682.404)

Section 682.404 outlines the ways GAs may receive compensation from their Federal fund for collections activity. This includes the provisions in § 682.404(g) that address the portion of borrower payments returned to the Secretary, the account maintenance fee equal to 0.06

percent of original principal amount of outstanding guaranteed loans in § 682.404(h), and the default aversion fee in § 682.404(j).

The Secretary modified the terms of § 682.404 to ensure that GAs will not have their revenue significantly decrease as a result of the pause on collections activity for FFEL loans in default held by a GA as required by the Secretary in connection with the COVID-19 national emergency.

In addition, the Secretary modified 34 CFR 682.404(h) to provide that GAs will receive an account maintenance fee on an annual basis equal to 0.76 percent of the original principal amount of outstanding loans. Under the modification, the fee is calculated each quarter from the period that covers the end of the pause on collections of defaulted FFEL loans at a GA through the fiscal year that is at least partially overlapping with the Fresh Start Initiative.

Section 3513 of the CARES Act

Section 3513 of the CARES Act directs the Secretary to (1) suspend all payments due, (2) cease interest accrual, and (3) suspend involuntary collections for loans that are held by the Department and made under parts D and B of title IV of the HEA through September 30, 2020. The section also directs the Secretary to deem each month for which a loan payment was suspended as if the borrower of

the loan had made a payment for the purpose of any loan forgiveness program or loan rehabilitation program authorized under parts D or B for which the borrower would have otherwise qualified. Lastly, this section directs the Secretary to ensure that, for the purpose of reporting information about the loan to a consumer reporting agency, any payment that has been suspended is treated as if it were a regularly scheduled payment made by a borrower.

On August 8, 2020, President Trump issued a memorandum directing the Secretary to continue to waive interest and payments on such loans until December 31, 2020. On December 4, 2020, the pause was further extended to January 31, 2021. On January 21, 2021, President Biden extended the pause through September 30, 2021. On August 6, 2021, the President authorized the Secretary to use his authority under the HEROES Act to extend the benefits provided under section 3513 of the CARES Act until January 31, 2022, for borrowers with federally held Perkins, HEAL, Direct, and FFEL loans. President Biden announced on December 22, 2021, that the Secretary would extend the waiver on interest and payments on such loans through May 1, 2022. In accordance with these prior announcements, on August 24, 2022, the Secretary announced he was using his authority

under the HEROES Act to modify the terms of the CARES Act to extend its benefits until December 31, 2022.⁶

On November 22, 2022, the Secretary announced another extension of the pause on student loan repayment, interest, and collections. Under the Fiscal Responsibility Act of 2023 (Public Law 118-15), the payment pause will end 60 days after June 30, 2023.

Treatment of Defaulted FFEL Loans Held by a Guaranty Agency

On March 30, 2021, the Department announced that it would be extending the waivers on interest and payments originally provided under the CARES Act and extended by the Department as discussed above to also include defaulted commercial FFEL loans held by a GA. The information in this announcement was clarified in DCL Gen-21-03, which was published on May 12, 2021.

This announcement of the extension of the waivers required GAs to set the interest rate to 0 percent on commercial FFEL loans in default and cease collections activity and charges. Moreover, the GAs had to refund any involuntary collections payments received on or after March 13, 2020, and offer borrowers the ability to have voluntary payments refunded. Borrowers that were in the process of pursuing a loan rehabilitation were able to have any months

⁶www.ed.gov/news/press-releases/biden-harris-administration-announces-final-student-loan-pause-extension-through-december-31-and-targeted-debt-cancellation-smooth-transition-repayment.

during the pause count toward the successful completion of that rehabilitation agreement. The Secretary also waives the provisions in section 428F(a)(1)(D)(II) of the HEA, 20 U.S.C. § 1078-6(a)(1)(D)(II) and 34 CFR §682.405(b)(1)(vi)(B) which authorizes guaranty agencies to charge collection costs when a borrower rehabilitates a defaulted loan.

The Department's announcement also noted that, during and through the end of the payment pause, the guaranty agencies must assign the FFEL loans that defaulted on or after March 13, 2020, to the Department in accordance with 34 CFR §682.409(a)(1) and that the Department will return those loans to good standing.

Prior to such assignment the GAs must delete their trade line from the borrower's credit report entirely.

Interest Capitalization

Under §685.202(b), §685.204, and §685.205 the Secretary capitalizes unpaid interest upon the end of a borrower's grace period and after expiration of a borrower's deferment or forbearance. Similar provisions that apply to FFEL loans are in §682.200, §682.210, and §682.211.

As part of the waivers and modifications included in the *Federal Register* notice published on December 11, 2020, the Department announced that if the borrower's loan payments were current before March 13, 2020, interest

accrued prior to that date, interest would not capitalize at the end of the coronavirus-related administrative forbearance period. However, interest that accrued on loans during the grace period and deferments and forbearances would be capitalized.

The Secretary has now waived the provisions related to capitalization of interest on loans held by the Department that, on March 12, 2020, were in a status during which interest was accruing and would be capitalized when the borrower exits that status. For instance, if a borrower was in their grace period on an unsubsidized loan on March 12, 2020, the interest on the loan that was due as of March 13, 2020, would not be capitalized when the borrower returns to repayment after the end of the payment pause. The same would be true of a loan that was in a deferment or forbearance immediately prior to the payment pause. Interest that accrued on those loans until March 13, 2020, would not be capitalized but would still have to be repaid.

Public Service Loan Forgiveness (34 CFR 685.219)

First, §685.219 provides that borrowers must be employed by a qualifying employer when making each qualifying payment, as well as when applying for and receiving PSLF. Section 3513 of the CARES Act and the waivers extending its student loan repayment benefits provide credit toward PSLF and TEPSLF during months when payments would have been due but for the suspension of

payments. Borrowers are still required to have worked for a qualifying employer during those months to receive full credit toward PSLF and TEPSLF.

The Secretary waived the requirement under § 685.219(c) (1) (ii) (B) that the borrower must be working for a qualifying employer at the time they receive forgiveness if they otherwise meet the requirements for forgiveness from March 2020 through the end of the student loan repayment pause authorized by section 3513 of the CARES Act and extended through the HEROES Act waivers. Borrowers, however, still have to have accumulated 120 months of qualifying employment. For borrowers who reach the 120 qualifying payment mark as a result of section 3513 of the CARES Act, the Secretary further waived the requirement that the borrower apply to receive PSLF or TEPSLF.

Second, on October 6, 2021, as prescribed under § 685.219(c) (1) (iii) and (c) (1) (iv), the Department announced a temporary waiver to give borrowers credit for prior, late, or partial payments that would not otherwise count toward PSLF, as well as payments made on a repayment plan that do not otherwise qualify for credit toward PSLF, such as payments made under the extended or graduated repayment plans.⁷ Specifically, any months in which the borrower is in a repayment status on their loan while they are also working for a qualifying employer counted as a qualifying

⁷ www.studentaid.gov/announcements-events/pslf-limited-waiver.

payment, regardless of the Federal loan type or repayment plan. This waiver was limited only to borrowers who submitted PSLF Forms or Employer Certification Forms or who completed the PSLF Help Tool prior to October 31, 2022, that were subsequently approved.

Further, the Secretary waived section 455(m)(4) of the HEA and 34 CFR 685.217(c)(12)(ii) and borrowers who have applied for teacher loan forgiveness and PSLF credit will be able to receive credit toward both benefits for the same period of time.

This limited waiver applies to all Federal student loans, as well as to current borrowers with Direct Loans, those who have already consolidated into the Direct Loan Program, and those with other types of Federal student loans who submitted a Direct Consolidation Loan application between October 6, 2021, and October 30, 2022.

Borrower Defense (34 CFR 685.206)

On December 11, 2020, the Department announced that borrowers who had applied prior to July 1, 2020, for a borrower defense discharge of FFEL, Perkins, and other loans that were not Direct Loans (non-Direct Loans), but who had not consolidated their non-Direct Loans prior to July 1, 2020, would have their applications for borrower defense discharges adjudicated under the standards for Direct Loans disbursed between July 1, 2017, and July 1, 2020. 85 FR at 79862.

To ensure those borrowers are treated equitably, and to align this waiver with prior extensions of the payment pause, borrowers who submitted applications for a borrower defense discharge on or before August 31, 2022, that relate to any Direct or non-Direct loans that were made prior to July 1, 2020, but which are consolidated on or after July 1, 2020, will be adjudicated under the standards for Direct Loans disbursed between July 1, 2017, and July 1, 2020.

USMLE Exam Scores at Foreign Medical Schools (34 CFR 600.55(f)(1)(ii) and (f)(2)-(4))

Under § 600.55(f), unless exempt under the law, all foreign graduate medical schools must, on an annual basis, have at least a 75 percent pass rate on each step/test of the USMLE administered by the Educational Commission for Foreign Medical Graduates (ECFMG), including Step 1, Step 2-Clinical Knowledge (Step 2-CK), and Step 2-Clinical Skills (Step 2-CS). However, during the pandemic, the Step 2-CS test was permanently discontinued, and, upon expiration of this waiver, institutions will only resume reporting results for Step 1 and Step 2-CK. Pass rate scores must be submitted to the Department by April 30 of each year.

The Secretary waived the minimum 75 percent pass rate requirement for currently approved foreign graduate medical schools that participate in the Direct Loan program for the duration of admissions years when the test was unavailable

for a period of time due to the COVID-19 national emergency. For admissions years that begin after the end of the COVID-19 national emergency on April 10, 2023, normal USMLE pass rate requirements will apply.

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(Assistance Listing Numbers: 84.032 Federal Family Education Loan Program; 84.032 Federal PLUS Program; 84.038 Federal Perkins Loan Program; 84.063 and 84.268 William D. Ford Federal Direct Loan Program.)

Program Authority: 20 U.S.C. 1071, 1082, 1087a, 1087aa, 1098bb.

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